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IN THE

Supreme Court of the United States

October Term, 1963.

No. 250

SAMUEL WILLIAM YORTY and FRANK G. BONELLI,
Appellants,

vs.

FRANK M. JORDAN, Secretary of State,
Appellee.

On Appeal From the Supreme Court of the State of California.

JURISDICTIONAL STATEMENT.

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Appellants,

vs.

FRANK M. JORDAN, Secretary of State,
Appellee.

On Appeal From the Supreme Court of the State of California.

JURISDICTIONAL STATEMENT.

Appellants appeal from the judgment of the Supreme Court of California entered on March 6, 1964. The judgment took the form of an order denying appellants' petition for writ of mandate which was filed for the purpose of attacking the validity of the California constitutional and statutory law governing the establishment of state senate districts. The ground for the attack is that the California law denies rights guaranteed by Section 1 of the Fourteenth Amendment of the Constitution of the United States.

This statement is filed to show that the Supreme Court of the United States has jurisdiction of the appeal and that a substantial question is presented. In *Reynolds v. Sim*, ... U. S. ..... and related cases de-

cided on June 15, 1964, this Court took jurisdiction of and decided substantially identical questions arising from other states.

Opinion Below.

No opinion was filed by the California Supreme Court. The appellants' petition for writ of mandate was denied without a hearing by an order filed on March 4, 1964. [Record, Order dated March 4, 1964.] Appellants filed a petition for rehearing [Record, Pet. for Rehrng. pp. 1-13], and this too was denied by an order filed on April 29, 1964, again without opinion. [Record, Orders dated March 25 and April, 29, 1964.]

Jurisdiction.

(i) The proceeding was commenced by filing a petition for writ of mandate with the California Supreme Court pursuant to its authority to take original jurisdiction in such matters. (Calif. Constit., Art. VI, Sec. 4; California Rules of Court, Title One, Chapter 2, Rule 56.)

The purpose of the proceeding was to command the appellee, Frank M. Jordan, Secretary of State of California, who is the chief officer of the State having statewide functions respecting the election of state senators, to refrain from performing any of his said duties with respect to the election of a state senator in any senate district established by the 1961 senate districting statute (Calif. Stats. 1961, ch. 1235, pp. 2983 and 879; Calif. Elections Code, Sec. 30100) and Sec. 6 of Article IV of the California Constitution as amended in 1926 and 1942 (Appendix A, attached hereto); and to command that he perform said duties only with respect to such elections in districts established

by laws which conform to the requirements of Section 1 of the Fourteenth Amendment of the United States Constitution and the California Constitution as it existed prior to the amendment of Section 6 of Article IV in 1926.

(ii) The date of the judgment sought to be reviewed is March 4, 1964, being the date the order denying the appellants' petition for writ of mandate was filed, and likewise being the date of its entry. A petition for rehearing was filed, and the order denying such petition was filed on April 29, 1964. A notice of appeal from said judgment was filed in the Supreme Court of California on May 27, 1964. [Record, Notice of Appeal, pp. 1-4.]

(iii) The statute believed to sustain appellate jurisdiction is 28 U. S. C. 1257(2).

(iv) The following cases are believed to sustain the jurisdiction of this court:

It is immaterial that the state enactment in question is a statute or constitutional amendment, or that it was enacted by a legislature or by the people. *King Manufacturing Co. v. Augusta*, 277 U. S. 100, 103-104, 72 L. Ed. 801, 805-806; *Williams v. Bruffy*, 96 U. S. 176, 183, 24 L. Ed. 716, 717; *Scholle v. Hare*, 369 U. S. 429, 8 L. Ed. 2d 1; *Lucas v. The Forty-Fourth General Assembly of the State of Colorado*, ... U. S. ...., 32 Law Week, 4557; *Reynolds v. Sim*, ... U. S. ..... 32 Law Week 4535.

It is not necessary that the decision of the state court, in direct terms, be against the claim of invalidity. It is enough if the necessary effect of the judgment is to deny the claim of invalidity. *People ex rel. Bryant*

v. Zimmerman, 278 U. S. 63, 67, 73 L. Ed. 184; *Hammerstein v. Superior Court*, 340 U. S. 622, 95 L. Ed. 586; 341 U. S. 491, 95 L. Ed. 1135.

A denial of a petition for writ of mandate without opinion, is considered a final order under California law. *Steen v. Board of Civil Service Commissioners*, 26 Cal. 2d 716, 728, 160 P. 2d 816.

The text of Section 4 of Article VI of the California Constitution, as adopted in 1926 and amended in 1942, and the text of Sec. 30100, California Elections Code (Cal. Elec. Code, Ch. 2, Div. 16, as added by Calif. Stats. 1961, ch. 1235, Sec. 2) are of such length as to make it more convenient to set them forth in the Appendix attached hereto.

Questions Presented.

I.

Are the laws of California establishing senate districts so devoid of reasonableness or just relation or relevance to the elective process that they arbitrarily and capriciously create invidious discriminations against the suffrage rights possessed by voters dwelling in the heavily populated counties of the State, with the result that appellants and other voters residing within such counties are denied the equal protection of the laws in violation of Section 1 of the Fourteenth Amendment?

(1) For the purposes of Section 1 of the Fourteenth Amendment, is a senate districting system reasonable or irrationally discriminatory which: (a) allows population discrepancies between districts as high as 422 to 1; (b) allows area discrepancies between districts as high as 477 to 1; or (c) follows no discernible rational pattern in establishing district lines to give representa-

tion to varying "interests" other than a rigid adherence to county boundaries established by or pursuant to state law, which county boundaries only occasionally or accidentally actually delimit "interests" acceptable as relevant to the elective process?

(2) May a senate districting system which makes use of factors other than population so subordinate population that: (a) 10.7% of the electorate can elect a majority of the Senate; (b) a population discrepancy as great as 422 to 1 exists between the largest and the smallest district; and (c) population discrepancies greater than 16 to 1 exist between the largest district and thirty of the remaining thirty-nine districts?

(3) Does a senate districting system which is otherwise invidiously discriminatory become reasonable and valid under Section 1 of the Fourteenth Amendment if it is adopted through the initiative process and the electorate persistently declines to approve subsequent amending initiative proposals?

(4) Does a senate districting system which is otherwise invidiously discriminatory become reasonable and valid under Section 1 of the Fourteenth Amendment because the lower house of the Legislature is so composed that the maximum population discrepancies between districts is only 4¼ to 1, and the discrepancies in only 30 of the 80 districts are more than 10% from the average or "ideal" population for an Assembly District?

(5) Does a senate districting system which is otherwise invidiously discriminatory become reasonable and valid under Section 1 of the Fourteenth Amendment because it is a "federal plan" through which no county may have more than one senate district and no more

than three counties of small population may be combined to form a senate district?

II.

In view of the great value attached to an individual's right of franchise, and in view of the fact that California law, contrary to fundamental ideas of democratic government, creates an unprecedentedly large debasement and dilution of the appellants' voting power as it pertains to the election of state senators, did the Supreme Court of California abuse its discretion and err by refusing to exercise its jurisdiction and in denying without opinion appellants' petition for writ of mandate?

Statement of the Case.

1. Summary of the History of the Organization of the California State Senate.

The 1849 and 1879 Constitutions of California each provided for a state senate organized primarily according to population.[1] Since 1879 the number of Senators has been fixed at forty, elected from districts.

As the result of growth of population at unequal rates in various areas of the State, Los Angeles County, within which appellants reside, was allotted three senatorial districts following the 1890 census, received five

[1]Art. IV, Sec. 29, Const. of 1849: "The number of senators and members of assembly shall, at the first session of the legislature holden after the enumerations herein provided for are made, be fixed by the legislature, and apportioned among the several counties and districts to be established by law according to the number of white inhabitants. . . ."

Art. IV, Sec. 6, Const. of 1879: ". . . and the legislature shall, at its first session after each census, adjust such districts and reapportion the representation so as to preserve them as near equal in population as may be. . . ." the full text is set forth as "Exhibit A", on page 17 of the Petition for Writ of Mandate [Record, Petition, p. 17].

following the 1900 census, and eight following the 1910 census. A combination of forces, deriving from the growth of urban areas at the expense of the rural, and the emergence of the south in general and Los Angeles County in particular as the most populous area in the State, produced a legislative deadlock following the 1920 census and no legislation reapportioning senate districts to reflect changes occurring in that decade was adopted.

In 1926 two initiative constitutional amendments relating to senate districting qualified for the November ballot. One, sponsored by interests associated with Los Angeles County, would have created a reapportionment commission to act in the event the Legislature failed to follow the constitutional mandate to reapportion. This initiative failed of adoption. The second, sponsored by the California Farm Bureau Federation and the San Francisco Chamber of Commerce, provided for a reapportionment commission and also for a senate districting system in which no county, however populous, could have more than one senate district, and no more than three counties, no matter how sparsely populated, could be combined into one senate district. This measure was approved by the voters.[2]

From the time that the 1926 initiative referred to was implemented,[3] Los Angeles County has been al-

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[2]The measure approved is set forth in the Appendix as Art. IV, Sec. 6 of the State Constitution. Except for substituting the State Controller in the place of the Surveyor General as a member of the Reapportionment Commission (1942), the text in the Appendix is unchanged from that adopted in 1926 (See Appendix A, this Jurisdictional Statement).

[3]Referendary proceedings following 1926 had the effect of delaying the operation of statutes enacted under the 1926 amendment of Art. IV, Sec. 6, until the commencement of the Legislative Session of 1931.

lotted a single senate district. In 1948, 1960 and again in 1962 initiative measures were qualified for the ballot for the purpose of providing, under differing formulae, but never on a strict population basis, a greater measure of representation in the state senate for the populous counties. Each of the three initiative proposals was defeated.

A petition for writ of mandate was filed in the Supreme Court of the State in December, 1962, by the appellants herein for the purpose of compelling the Reapportionment Commission to establish senate districts conforming to standards prescribed by the Constitution of 1879 prior to the 1926 amendment. A decision was rendered (*Lorty and Bonelli v. Anderson, et al.*, 60 Adv. Cal. 265, 33 Cal. Rptr. 97) denying relief on the ground that the Reapportionment Commission was without jurisdiction under the circumstances, but pointing out as follows:

> "The fact that this proceeding may not be maintained against the commission does not mean that petitioners are without a remedy to test the validity of the provisions for senatorial reapportionment set forth in [Article IV] section 6 [of the State Constitution]. The Secretary of State is the chief officer having statewide functions with respect to the election of state senators. In an appropriate proceeding against this officer such as mandamus . . . or declaratory relief . . . petitioners could obtain a determination as to the validity of section 6 and statutes adopted pursuant to it." (60 Adv. Cal. 270.)

The present proceeding (*Yorty and Bonelli v. Jordan*) was commenced on February 14, 1964, in reliance upon the passage quoted above by filing with the Supreme Court of California a petition for writ of mandate directing Appellee Jordan, as Secretary of State, to refrain from performing the functions of his office with respect to elections for members of the State Senate in any district created by statute pursuant to Article IV, Section 6 of the California Constitution, as amended in 1926. [Record, Petition for Writ of Mandate, *Yorty and Bonelli v. Jordan*, Sac. No. 7543, pp. 1-76, filed Feb. 14, 1964] In accordance with Court Rule 56 (See Appendix III), the respondent Jordan (appellee herein) filed points and authorities in opposition. [Record, Points and Authorities In Opposition, *Yorty and Bonelli v. Jordan*, Filed Feb. 26, 1964, pp. 1-16.] On March 4, 1964, an order was made and filed denying the petition for writ of mandate. [Record, Order, filed March 4, 1964.] A petition for rehearing was filed on March 13, 1964 [Record, Petition for Rehrng, pp. 1-13] and on March 26, 1964, an order was made and filed extending the time within which a petition for rehearing might be granted or denied until May 1, 1964. [Record, Order, filed March 25, 1964.] On April 29, 1964, an order was made and filed in which the petition for rehearing was denied. [Record, Order, filed April 29, 1964.]

The same fundamental problem involved in the present appeal is at issue in an action for declaratory relief brought by another party against the appellee Jordan, and others. (*Silver v. Jordan, et al.*, D. C. S. D. Cal. Civ. Action No. 62-953-MC.) A three-judge district court has been convened and facts have been stipulated to.

2. Facts Bearing Upon the "Reasonableness" or "Irrationality" of the California Senate Districting System.

The physical, economic and demographic diversity that exists in the State of California matches, if it does not exceed, that found in any other state. There are mountains and plains, wastelands and fertile lands, areas of water surplus, areas of aridity, centers of industry, finance and commerce, and centers of agriculture, mining and lumbering. There are great population centers and vast areas so sparsely settled as to be virtually uninhabited.

On top of this complex diversity is imposed a pattern of 58 counties, varying in size from the 45 square miles of the City and County of San Francisco to the 20,131 square miles of San Bernardino County, and varying in population (1960 census figures) from the 397 persons in Alpine County to the 6,038,771 persons who dwell in Los Angeles County.

While not challenging the right of a state, when establshing senate districts, to take into account such features of this diversity as may have actual and reasonable relevance to the elective process, it is the position of appellants that the California system, if it follows any plan at all, follows one of deliberate discrimination against the persons dwelling within the populous counties of the State, and that the degree of this discrimination is so great as to deprive persons dwelling within those populous counties of the equal protection of the laws. Certain examples will illustrate:

(a) It is said that the California senate districting system takes into account two factors—population and territory. The facts show that the largest district in area (San Bernardino County), with 503,591 popula-

tion, is 477 times the size of the smallest district in area (the City and County of San Francisco), which has 740,316 population. [Record, Petition, pp. 31, 32; Exs. F and G.] Yet each district has one senator. The facts show that the largest district in population (Los Angeles County, with 6,038,771 persons) has 422 times the population of the least populous (Inyo, Mono and Alpine Counties) which has but 14,196 persons. [Record, Petition, p. 30; Ex. E-3.] Yet, each has the same representation in the Senate—one.

Assuming that a "two-factor" system may be rationally applied, it has not been done so.

(b) It is said that the California system is designed to preserve control of the Senate in the rural agricultural producing areas of the State. If this is a permissible method for establishing senate districts, in California practice it is done in a highly unequal and irrational manner. The facts show that the formula took no account of the great agricultural and rural interests which exist within the heavily populated counties. For example, of the fifteen counties which in 1961 produced agricultural products worth in excess of $100,000,000 each, nine were among the fifteen most populous countries in the State [Record, Petition, Exs. J and D, pp. 43-44, 24-25]; further, Los Angeles and San Diego Counties, the two most populous, had a rural population in 1960 of 185,523, which is almost as great as the 192,829 rural population residing *in the 29 least populous countries combined.* [Record, Petition, Ex. J, pp. 43-44.] Los Angeles County has more acres in farms than any one of 27 other counties; San Diego County has more acres in farms than any one of 42 other counties. [Record, Petition, Ex. J, pp. 43-44.]

If, as assumed above, a deliberate weighting of rural interests at the expense of urban interests is a permissible method of establishing senate districts, it is clear that in actual practice only the rural interests in sparsely settled counties were given the extra weight, and the rural interests in the heavily settled counties were ignored. Such discrimination is unsupported by any rationally acceptable explanation.

(c) The degree of discrimination against the voting power of persons residing within the populous counties is further illustrated by examining the voting procedures of the State Senate. It is composed of 40 members. Most actions taken by the Senate require a majority of 21 votes for adoption.[4] Other measures, however, require at least a 2/3 vote (27 Senators) for adoption.[4] Thus, it is possible for twenty senators, whose districts have less than 10% of the population, to block passage of a bill requiring a majority vote [Record, Petition, Ex. G, p. 32]; and fourteen Senators representing districts with slightly more than 5% of the population have power to block passage of a measure requiring a 2/3 vote. [Record, Petition, Ex. G, p. 32.] Senators representing the twenty-one least populous districts (10.7% of the population) have the power to adopt a measure requiring a majority vote over the opposition of nineteen Senators representing over 89% of the people; and Senators representing the 27 least populous

[4]The following are some of the kinds of actions for which the California Constitution require a 2/3 vote: urgency measures for the preservation of public peace, health or safety, Art. IV, Sec. 1; override a veto, Art. IV, Sec. 16; propose an amendment to the Constitution, Art. XVIII, Sec. 1; adopt a statute to authorize issuance of general obligation bonds, Art. XVI, Sec. 1; appropriation from the general fund other than for support of the public school system, Art. IV, Sec. 34a.

districts (less than 20% of the population) can adopt a measure requiring a 2/3 vote over the objection of the Senators representing more than 80% of the population. [Record, Petition, Ex. G, p. 32.]

(d) The degree of discrimination against the voting power of persons residing in the populous counties is also illustrated by the relative amounts of financial interest in state legislation possessed by the residents of the several counties and senate districts. Exhibits H and I to the petition for writ of mandate [Record, Petition pp. 33-42] show totals of selected state tax collections from counties and senate districts, and total state subventions to the areas of collection. The difference, called "net state taxes paid", is expressed as a dollar figure, with the following results: Senators from the 27 least populous districts, whose population pay 8.1% of the "net state taxes", have the voting power to adopt an appropriation from the general fund against the opposition of the remaining 13 Senators whose population pays 91.9% of the "net state taxes". Senators from the 20 least populous districts whose population pay 2.3% of the "net state taxes" have the voting power to block adoption of a measure requiring a majority vote which is desired by the remaining Senators whose constituents pay 97.7% of the "net state taxes".

3. The Composition of the State Assembly.

The point is argued from time to time that where one house of a bicameral legislature is organized according to population, the requirements of the Fourteenth Amendment do not forbid organization of the second house on another basis. However valid this argument may be on a given state of facts, it is not available in California where constitutional provisions controlling

the formation of assembly districts operate to make it virtually impossible to achieve substantially equal populations in the 80 assembly districts. California assembly districts vary from the smallest, with a population of 72,105 in Imperial County, to the largest with a population of 306,191 in the neighboring Riverside County. 30 districts vary more than 10% from the "ideal" or "average" of 196,465; 24 of them vary more than 15%. [Record, Petition, pp. 59-61.]

4. How the Federal Question Is Presented.

In the petition for writ of mandate filed with the California Supreme Court, the basic contention was that the provisions of California law establishing senate districts deprived appellants and all persons similarly situated of the equal protection of the laws in violation of Section 1 of the Fourteenth Amendment. Reference was made to and reliance placed upon this federally protected constitutional right in several places in the petition, of which the following from the Record, Petition, page 9, is typical:

> ". . . The effect of the quoted portion of Section 6 of Article IV and the effect of Chapter 1235 of the Statutes of 1961 and Chapter 397 of the Statutes of 1951 is to discriminate invidiously against petitioners and all persons similarly situated and to deprive them of the equal protection of the laws contrary to the provisions of Section 1 of the Fourteenth Article of Amendment of the United States Constitution."

An additional federal question was presented in the petition for rehearing [Record, Pet. for Rehrng. pp. 2, 10-12] by reference to the decisions of the Supreme Court of the United States holding that it is the duty

of a state, including a state court; when faced with a situation where equal protection is being denied, to provide that protection for one person as soon as it is provided for all, and that in cases involving civil rights, including the right to vote, a refusal to hear, or a dismissal, amounts to error.

Wesberry v. Sanders, 376 U. S. 1, 84 S. Ct. 526, 528, 529, 530;

Watson v. City of Memphis, 373 U. S. 526, 533;

State of Florida v. Board of Control, 350 U. S. 413;

Sweatt v. Painter, 339 U. S. 629, 635;

Sipuel v. Board of Regents, 332 U. S. 631, 632.

The Questions Are Substantial.

This appeal concerns the central right of all men who live in a democratic society—the right to vote. More particularly, it concerns the derivative and co-equal right of a citizen to cast votes having equal weight and influence as those cast by other citizens; for, to the extent that the strength of one man's vote is diluted in the counting, to that same extent his very right to vote is itself effectively denied. As stated in *Wesberry v. Sanders*, 376 U. S. 1, 8, 84 S. Ct. 526, 530:

"'. . . To say that a vote is worth more in one district that in another would . . . run counter to our fundamental ideas of democratic government. . . .'"

The importance of the issue presented in this case differs from the state legislative apportionment cases already decided by this Court in one and only one major particular: While the integrity of one person's vote in

California is inherently no more important that the integrity of another's living in a different state, the degree of the erosion, the sharpness of the injustice found in California exceeds all others. In no reported case, including all of those decided on June 15, 1964, and those decided on June 22, 1964, can facts be found which approach the degree of discrimination found in California; in no reported case which acknowledges jurisdiction to decide such a controversy is there a decision expressing approval on Fourteenth Amendment grounds of discrepancies of the magnitude found in California. If there was a need for plenary consideration of the cases arising from other states, it follows that the need for plenary consideration in the present case is proportionately greater.

Because of the recent and exhaustive treatment so recently given to the very problems presented in this appeal, and in the interests of brevity, it is regarded as unnecessary at this time to present anything more than a citation of the authorities which are now considered controlling on all issues presented. These authorities are:

Reynolds v. Sims, ... U. S. ....., 32 Law Week 4535;

WMCA, Inc. v. Lomenzo, ... U. S. ....., 32 Law Week 4551;

Lucas v. The Forty-Fourth General Assembly of the State of Colorado, ... U. S. ....., 32 Law Week 4557;

The Maryland Committee For Fair Representation v. Tawes, ... U. S. ....., 32 Law Week 4573;

Davis v. Mann, ... U. S. ....., 32 Law Week 4579;

Roman v. Sincock, U. S. ....., 32 Law Week 4583.

Under these authorities, it is now clear, as contended by appellants at all stages of the present and antecedent litigation [Record, Petition, pp. 55-76], that the present constitutional and statutory law governing the establishment of State senate districts in California deprives appellants and others similarly situated in the populous counties of the State of the equal protection of the laws, contrary to the requirements of Section 1 of the Fourteenth Amendment of the United States Constitution.

Conclusion.

For the reasons set forth, this Court has jurisdiction of the appeal, and it is submitted that the questions presented are substantial. Probable cause should be noted and the appeal should be set down for briefing and oral argument on the merits. The matter is no less important than the cases already decided, and the refusal of the highest court in the State to grant relief, even to the extent of taking jurisdiction, leaves appellants with no practicable avenue of redress other than appeal to this Honorable Court.

Respectfully submitted,

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APPENDIX A.

Text of Statutes Involved.

I.

Section 6 of Article IV of the California Constitution, as adopted in 1926 and amended in 1942:

"Section 6. For the purpose of choosing Members of the Legislature, the State shall be divided into forty senatorial and eighty assembly districts to be called senatorial and assembly districts. Such districts shall be composed of contiguous territory, and assembly districts shall be as nearly equal in population as may be. Each senatorial district shall choose one Senator and each assembly district shall choose one Member of Assembly. The senatorial districts shall be numbered from one to forty, inclusive, in numerical order, and the assembly districts shall be numbered from one to eighty in the same order, commencing at the northern boundary of the State and ending at the southern boundary thereof. In the formation of assembly districts no county, or city and county, shall be divided, unless it contains sufficient population within itself to form two or more districts, and in the formation of senatorial districts no county, or city and county, shall be divided, nor shall a part of any county, or of any city and county, be united with any other county, or city and county, in forming any assembly or senatorial district. The census taken under the direction of the Congress of the United States in the year one thousand nine hundred and twenty, and every ten years thereafter, shall be the basis of fixing and adjusting the legislative districts; and the Legislature shall, at its

first regular session following the adoption of this section and thereafter at the first regular session following each decennial federal census, adjust such districts, and reapportion the representation so as to preserve the assembly districts as nearly equal in population as may be; but in the formation of senatorial districts no county or city and county shall contain more than one senatorial district, and the counties of small population shall be grouped in districts of not to exceed three counties in any one senatorial district; provided, however, that should the Legislature at the first regular session following the adoption of this section or at the first regular session following any decennial federal census fail to reapportion the assembly and senatorial district, a Reapportionment Commission, which is hereby created, consisting of the Lieutenant Governor, who shall be chairman, and the Attorney General, State Controller, Secretary of State and State Superintendent of Public Instruction, shall forthwith apportion such districts in accordance with the provisions of this section and such apportionment of said districts shall be immediately effective the same as if the act of said Reapportionment Commission were an act of the Legislature, subject, however, to the same provision of referendum as apply to the acts of the Legislature.

Each subsequent reapportionment shall carry out these provisions and shall be based upon the last preceding federal census. But in making such adjustments no persons who are not eligible to become citizens of the United States, under the naturalization laws, shall be counted as forming a

part of the population of any district. Until such districting as herein provided for shall be made, Senators and Assemblymen shall be elected by the districts according to the apportionment now provided for by law."

II

California Elections Code, Sec. 30100 (Calif. Stats., 1961, Ch. 1235, Sec. 2).

"CHAPTER 2

"SENATORIAL DISTRICTS

"Chapter 2, added by Stats. 1961, c. 1235, p. 2983 and 879 §2.

"§30100. *Senatorial districts; designation and boundaries*

"The State is divided into 40 Senatorial districts, which shall be designated and constituted as follows:

"1. The Counties of Modoc, Lassen and Plumas shall constitute the First Senatorial District.

"2. The Counties of Del Norte and Siskiyou shall constitute the Second Senatorial District.

"3. The County of Humboldt shall constitute the Third Senatorial District.

"4. The Counties of Mendocino and Lake shall constitute the Fourth Senatorial District.

"5. The Counties of Trinity and Shasta shall constitute the Fifth Senatorial District.

"6. The County of Butte shall constitute the Sixth Senatorial District.

"7. The Counties of Sierra, Nevada and Placer shall constitute the Seventh Senatorial District.

"8. The Counties of Tehama, Glenn and Colusa shall constitute the Eighth Senatorial District.

"9. The Counties of Eldorado and Amador shall constitute the Ninth Senatorial District.

"10. The Counties of Yuba and Sutter shall constitute the 10th Senatorial District.

"11. The Counties of Napa and Yolo shall constitute the 11th Senatorial District.

"12. The County of Sonoma shall constitute the 12th Senatorial District.

"13. The County of Marin shall constitute the 13th Senatorial District.

"14. The City and County of San Francisco shall constitute the 14th Senatorial District.

"15. The County of Solano shall constitute the 15th Senatorial District.

"16. The County of Alameda shall constitute the 16th Senatorial District.

"17. The County of Contra Costa shall constitute the 17th Senatorial District.

"18. The County of Santa Clara shall constitute the 18th Senatorial District.

"19. The County of Sacramento shall constitute the 19th Senatorial District.

"20. The County of San Joaquin shall constitute the 20th Senatorial District.

"21. The County of San Mateo shall constitute the 21st Senatorial District.

"22. The County of Stanislaus shall constitute the 22nd Senatorial District.

"23. The Counties of Santa Cruz and San Benito shall constitute the 23d Senatorial District.

"24. The Counties of Merced and Madera shall constitute the 24th Senatorial District.

"25. The County of Monterey shall constitute the 25th Senatorial District.

"26. The Countjes of Tuolumne, Mariposa and Calaveras shall constitute the 26th Senatorial District.

"27. The County of Kings shall constitute the 27th Senatorial District.

"28. The Counties of Alpine, Mono and Inyo shall constitute the 28th Senatorial District.

"29. The County of San Luis Obispo shall constitute the 29th Senatorial District.

"30. The County of Fresno shall constitute the 30th Senatorial District.

"31. The County of Santa Barbara shall constitute the 31st Senatorial District.

"32. The County of Tulare shall constitute the 32d Senatorial District.

"33. The County of Ventura shall constitute the 33d Senatorial District.

"34. The County of Kern shall constitute the 34th Senatorial District.

"35. The County of Orange shall constitute the 35th Senatorial District.

"36. The County of San Bernardino shall constitute the 36th Senatorial District.

"37. The County of Riverside shall constitute the 37th Senatorial District.

"38. The County of Los Angeles shall constitute the 38th Senatorial District."

"39. The County of Imperial shall constitute the 39th Senatorial District.

"40. The County of San Diego shall constitute the 40th Senatorial District."

III

California Rules of Court, Title One, Chapter 2, Rule 56:

RULE 56. ORIGINAL PROCEEDINGS

"(*a*) [*Form and content of petition*] A petition to a reviewing court for a writ of mandate, certiorari, or prohibition, or for any other writ within its original jurisdiction, must be verified and shall set forth the matters required by law to support the petition, and also the following: (1) If the petition might lawfully have been made to a lower court in the first instance, it shall set forth the circumstances which, in the opinion of the petitioner, render it proper that the writ should issue originally from the reviewing court; and (2) if any judge, court board, or other officer or tribunal in the discharge of duties of a public character be named therein as respondent, the petition shall disclose the name of the real party in interest, if any, or the party whose interest would be directly affected by the proceeding.

"(*b*) [*Points and authorities and service*] A petition for the issuance of such a writ shall be accompanied by points and authorities and by proof of service of both on the respondent and any real party in interest named in the petition. Within five days after such service and filing the respondent or any real party in interest or both, separately

or jointly, may serve and file points and authorities in opposition; provided, however, that the court in its discretion (1) may allow the filing of the petition without service, and (2) may act on the petition without requiring the prior filing of opposition.

"(c) [*Return*] If the petition is granted with or without prior service or opposition, and a writ or order to show cause issues, the respondent or real party in interest or both, separately or jointly may make a return, by demurrer, verified answer or both. Unless a different return date is specified by the court, the return shall be made at least five days before the date set for hearing. If the return is by demurrer alone, and the demurrer is not sustained, the peremptory writ may issue without leave to answer.

"(d) [*Proceedings not covered by this rule*] The provisions of this rule shall not apply to applications for writ of habeas corpus, or to petitions for review pursuant to rules 57, 58 and 59."